



DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that certain pasta (pasta) from Italy was sold in the United States at less than normal value during the period of review (POR) July 1, 2018, through June 30, 2019. Additionally, Commerce determines that Pasta Berruto S.p.A. (Pasta Berruto) had no shipments during the POR.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Jonathan Hall-Eastman, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington D.C. 20230; telephone: (202) 482-1468.

**SUPPLEMENTARY INFORMATION:**

Background

On November 23, 2020, Commerce published the *Preliminary Results*.<sup>1</sup> On January 26, 2021, Commerce received case briefs on behalf of La Molisana S.p.A. (La Molisana), Valdigrano di Flavio Pagani S.r.L., and Ghigi 1870 S.p.A. and Pasta Zara S.p.A. (collectively Ghigi/Zara). On February 5, 2021, Riviana Foods and Treehouse Foods LLC., collectively domestic producers of pasta, submitted a rebuttal brief for each of the submitted case briefs.

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<sup>1</sup> See *Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 85 FR 74676 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

Commerce extended the deadline for the final results by 59 days on March 3, 2021.<sup>2</sup> The deadline for the final results of this review is now May 21, 2021. For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.<sup>3</sup>

### Scope of the Order

The products covered by this order are certain pasta from Italy. For a full description of the scope, see the Issues and Decision Memorandum.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html/>.

### Determination of No Shipments

As noted in the *Preliminary Results*, we received a no-shipment claim from Pasta Berruto. In the *Preliminary Results*, we preliminarily determined that Pasta Berruto had no shipments during the POR. We received no comments from interested parties with respect to this claim. Therefore, we continue to find that Pasta Berruto had no shipments during the POR.

### Changes Since the *Preliminary Results*

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<sup>2</sup> See Memorandum, "Certain Pasta from Italy: Extension of Time Limit Final Results of Antidumping Duty Administrative Review; 2018/2019," dated March 3, 2021.

<sup>3</sup> See Memorandum, "Certain Pasta from Italy: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2018-2019," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Based on a review of the record and comments received from interested parties, we relied on revised cost of production data when calculating the weighted-average dumping margin for La Molisana.<sup>4</sup>

#### Rates for Companies Not Selected for Individual Examination

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act). Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies which we did not examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis*, or based entirely on facts available (FA) in calculating an all-others rate. Accordingly, Commerce's practice in administrative reviews has been to average the weighted-average dumping margins for the companies selected for individual examination in the annual review, excluding rates that are zero, *de minimis*, or based entirely on FA.<sup>5</sup> For these final results of review, we calculated a weighted-average dumping margin for La Molisana that is above *de minimis* and not based entirely on FA. Therefore, consistent with our practice, we have assigned the companies not selected for individual examination the weighted-average dumping margin calculated for La Molisana.

#### Final Results of the Review

Commerce determines that the following weighted-average dumping margin exists for the period July 1, 2018, through June 30, 2019:

Exporter or Producer	Weighted-Average Dumping Margin (percent)
Ghigi 1870 S.p.A., Pasta Zara S.p.A.	91.76

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<sup>4</sup> *Id.* at Comment 2.

<sup>5</sup> See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

<b>Exporter or Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
La Molisana S.p.A.	15.72
<b>Review-Specific Average Rate Applicable to the Following Companies</b>	
F. Divella S.p.A.	15.72
Liguori Pastificio dal 1820 S.p.A.	15.72
Newlat Food S.p.A.	15.72
Pastificio Di Martino Gaetano e Flli S.p.A.	15.72
Pastificio Fratelli DeLuca S.r.l.	15.72
Pastificio Rey S.r.L.	15.72
Rummo S.p.A.	15.72
Tesa S.r.L.	15.72
Valdigrano di Flavio Pagani S.r.L.	15.72

#### Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.

Commerce has calculated importer-specific antidumping duty assessment rates. For La Molisana, we calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by La Molisana where the producer did not know its merchandise was destined for the United States, or for entries associated with Pasta Berruto, who had no shipments during the POR, we will instruct CBP to

liquidate unreviewed suspended entries, consistent with the reseller policy, at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.<sup>6</sup>

The assessment rate for antidumping duties for Ghigi/Zara, as well as for each of the companies not selected for individual examination, will be equal to the weighted-average dumping margin identified above in the Final Results of Review.

Consistent with its recent notice,<sup>7</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies identified above in the Final Results of Review will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-specific rate established for the most recently-completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers

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<sup>6</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>7</sup> See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

or exporters will continue to be 15.45 percent, the all-others rate established in the section 129 determination.<sup>8</sup>

These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties has occurred and the subsequent assessment of double antidumping duties.

#### Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: May 20, 2021.

**Christian Marsh,**  
*Acting Assistant Secretary for Enforcement and Compliance.*

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<sup>8</sup> See *Implementation of the Findings of the WTO Panel in US-- Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261 (May 4, 2007).

## Appendix

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
  - II. Background
  - III. Scope of the Order
  - IV. Changes Since the *Preliminary Results*
  - V. Discussion of the Issues
    - Comment 1: Protein Content
    - Comment 2: Revisions to La Molisana's Cost Reporting
    - Comment 3: Model Match for La Molisana's Tri-Color Pasta
    - Comment 4: Alternative Comparison Methodology
    - Comment 5: Price of La Molisana's Private Label Pasta
    - Comment 6: Application of Total AFA to Ghigi/Zara
    - Comment 7: Collapsing Ghigi/Zara
  - VI. Recommendation
- [FR Doc. 2021-11133 Filed: 5/25/2021 8:45 am; Publication Date: 5/26/2021]